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2 UNITED STATES DISTRICT COURT  
3 DISTRICT OF NEVADA  
4

5 GENE ALLEN,

6 Petitioner,

7 v.

8 STATE OF NEVADA, *et al.*,

9 Respondents.  
10

Case No. 2:19-cv-00094-RFB-CWH

**ORDER GRANTING APPLICATION TO  
PROCEED *IN FORMA PAUPERIS*, AND  
SUMMARILY DISMISSING ACTION**

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12 This action is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. It was  
13 initiated by Nevada prisoner Gene Allen on January 15, 2019. On that date, Allen filed an  
14 application to proceed *in forma pauperis* (ECF No. 1), along with a petition for writ of habeas  
15 corpus (ECF No. 1-1).

16 The financial information provided with Allen's application to proceed *in forma pauperis*  
17 indicates that he is unable to pay the filing fee for this action. Therefore, the *in forma pauperis*  
18 application will be granted.

19 The Court has examined Allen's petition pursuant to Rule 4 of the Rules Governing Section  
20 2254 Cases in the United States District Courts and determines that it is subject to summary  
21 dismissal.

22 This is plainly a successive petition, and Allen makes no allegation that he has obtained  
23 permission from the Ninth Circuit Court of Appeals to pursue a successive petition. *See* 28 U.S.C.  
24 § 2244(b)(3); Rule 9 of the Rules Governing Section 2254 Cases. A review of the Court's records  
25 indicates that Allen has initiated some 30 federal habeas actions in this Court prior to this one, and  
26 that many of those challenged the same April 7, 2003 conviction that is apparently the subject of  
27 the petition in this case. The Court takes judicial notice of Allen's previous habeas litigation in this  
28

1 Court. In an order in one of those cases, *Allen v. State*, 2:07-cv-00226-PMP-LRL, on August 1,  
2 2007, this Court stated:

3 Allen has filed at least 14 habeas petitions in this court alone, all attacking  
4 the same conviction. [Footnote: *See* cases, 3:05-cv-00616-LRH-VPC, 3:05-cv-  
5 00639-LRH-RAM, 3:03-cv-00414-ECR-VPC, 3:03-cv-00465-LRH-RAM, 3:03-  
6 cv-00519-ECR-RAM, 3:03-cv-00541-ECR-VPC, 3:03-cv-00672-LRH-RAM,  
7 3:03-cv-00692-LRH-RAM, 3:04-cv-00189-ECR-VPC, 3:05-cv-00184-LRHVPC,  
8 3:05-cv-00458-RLH-VPC, 2:03-cv-00770-KJD-PAL, 3:06-cv-00079-LRH-VPC.]  
9 On at least two previous occasions, Allen was ordered by the court to submit  
10 any and all habeas corpus claims related to his April 7, 2003 conviction in case  
11 number 3:03-cv-00414-ECR-VPC. (See Cases Nos. 3:03-cv-00519-ECR-RAM,  
12 3:03-cv-00541-ECR-VPC). Allen repeatedly ignored those court orders, and in fact  
13 filed eight new habeas lawsuits after those orders were issued. Allen has also had  
14 at least two habeas corpus petitions dismissed as successive petitions pursuant to  
15 28 U.S.C. §2244(b)(3)(A). (See Cases Nos. 3:05-00639-LRH-RAM, and 3:06-cv-  
16 00079-LRH-VPC). In both of those cases, Allen was informed that he could not  
17 pursue any additional habeas corpus petitions until he moved the United States  
18 Court of Appeals for the Ninth Circuit for an order authorizing this court to consider  
19 the petition. *See* 28 U.S.C. § 2244(b)(3)(A); Rule 9 of the Rules Governing Section  
20 2254 Cases. Allen has never done so.

21 Order filed August 1, 2007, ECF No. 2 in *Allen v. State*, 2:07-cv-00226-PMP-LRL, p. 2. More  
22 than eleven years later, Allen is still attempting to initiate a successive habeas action without  
23 obtaining the required authorization from the court of appeals.

24 Moreover, Allen's habeas petition in this action is patently frivolous. The petition does not  
25 make any colorable allegation that his state-court conviction is in violation of the federal  
26 constitution or any other federal law.

27 The Court will, therefore, dismiss this action. And, because it is beyond any rational dispute  
28 that this action is successive and without the required authorization from the court of appeals,  
wholly without merit, and subject to summary dismissal, the Court will deny Allen a certificate of  
appealability.

**IT IS THEREFORE ORDERED** that the petitioner's Application to Proceed *in Forma*  
*Pauperis* (ECF No. 1) is **GRANTED**. Petitioner need not pay the filing fee for this action.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall separately file the Petition  
for Writ of Habeas Corpus (attached to the application to proceed *in forma pauperis*, at ECF No.  
1-1).

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**IT IS FURTHER ORDERED** that this action is **DISMISSED**.

**IT IS FURTHER ORDERED** that petitioner is denied a certificate of appealability.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

DATED this 17th day of January, 2019.



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RICHARD F. BOULWARE, II,  
UNITED STATES DISTRICT JUDGE